

Before the
Federal Communications Commission
Washington, D.C. 20554

APR 19 1994

FCC-1

In re Applications of)	MM Docket No. 93-241
)	
DARRELL BRYAN)	File No. BPH-920109MA
)	
SBH PROPERTIES, INC.)	File No. BPH-920123MD
)	
)	
For Construction Permit for		
New FM Channel 276A		
Tusculum, Tennessee		

To: Honorable Arthur I. Steinberg
Administrative Law Judge

MOTION TO POSTPONE CONFERENCE

SBH Properties, Inc. ("SBH") by counsel herewith moves to have the settlement conference, scheduled for 3:00 PM, April 27, 1994, postponed to a date to be determined. In support whereof the following is shown:

1. By Order (94M-159), released March 17, 1994, the Chief Administrative Law Judge appointed Judge Arthur I. Steinberg to serve as the Settlement Judge in this proceeding. Subsequently, by Order (94M-238), released April 7, 1994, the Settlement Judge directed that a settlement conference be held at 3:00 PM on April 27, 1994, and that, prior to such conference counsel for the applicants confer for purposes of exploring the possibility of reaching a settlement.

2. SBH requests that the referenced conference be postponed until such time as the Presiding Judge acts with respect to SBH's

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pending Second Petition to Enlarge Issues, which was filed February 15, 1994. Therein, SBH sought enlargement of the issues in this proceeding to include financial qualifications and related issues, as well as obstruction of discovery issues, against Darrell Bryan ("Bryan"). Bryan filed his Opposition on March 14, 1994, and SBH submitted its Reply on March 31, 1994. Were the Petition to be granted and any of the requested issues added, this proceeding would go forward through discovery and hearing on those issues, which would not be impacted by the "freeze." Furthermore, were he to determine that the added issues were to be resolved adversely to Bryan, the Presiding Judge would be in a position to issue an Initial Decision and terminate this proceeding without ever addressing the standard comparative issue.

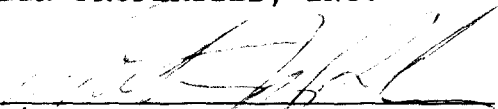
3. Accordingly, until such time as the Presiding Judge rules on the pending Second Petition to Enlarge Issues, it may not be concluded that this proceeding is impacted by the current "freeze," inasmuch as the "freeze" impacts only those proceedings which may not be resolved apart from consideration of the standard comparative issue. Should the requested issues be added, this proceeding would go forward on those issues and could well be resolved on those issues without reaching the standard comparative issue. Alternatively, were the Petition to be denied, it would be appropriate for the Settlement Judge to establish a date for the proposed settlement conference. However, until the uncertainty regarding this matter is removed

it would be inappropriate and serve no useful purpose to convene a settlement conference, based upon the supposition that this proceeding is subject to the "freeze." ¹/ Counsel for the Mass Media Bureau has authorized the undersigned to state that the Bureau has no objection to the grant of this Motion.

WHEREFORE, the settlement conference, scheduled in the above proceeding for 3:00 PM, April 27, 1994, SHOULD BE POSTPONED to a date to be determined, following action by the Presiding Judge on the pending Second Petition to Enlarge Issues, filed February 15, 1994.

Respectfully Submitted

SBH PROPERTIES, INC.

By: 
Timothy K. Brady
Its Attorney

P.O. Box 986
Brentwood, TN 37027-0986
(615) 371-9367

April 19, 1994

1. SBH questions whether a settlement conference would serve any useful purpose in this proceeding in any event. In that regard it is noted that the parties have previously discussed settlement on a number of occasions, both directly and through counsel. However, none of those discussions have proven fruitful nor has anything contained in the Court's Bechtel decision caused SBH to modify its position regarding settlement.

CERTIFICATE OF SERVICE

I, Timothy K. Brady, hereby certify that on or before the 14th day of April, 1994, I will have served a copy of the foregoing Motion to Postpone Conference by First Class mail, postage prepaid (except as noted) upon the following:

Honorable Arthur I. Steinberg *
Administrative Law Judge
Federal Communications Commission
2000 L Street, NW, Room 228
Washington, DC 20554

Robert A. Zuaner, Esq.
Hearing Branch
Federal Communications Commission
2025 M Street, NW, Room 7212
Washington, DC 20554

J. Richard Carr, Esq. **
P.O. Box 70725
Chevy Chase, MD 20813-0725
(Co-Counsel for Darrell Bryan)

* Via Federal Express
** Via Facsimile and Mail


TIMOTHY K. BRADY